

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Appellant:	Nystrom et al.	Examiner:	Basit, A.
Serial No.:	10/586,771	Group Art Unit:	3694
Filing Date:	May 10, 2007	Docket No.:	IHN.067.WUS
Confirmation No.:	1601	Customer No.:	76385
Title:	METHOD, DEVICE AND SYSTEM FOR AUTOMATED CONTEXT INFORMATION BASED SELECTIVE DATA PROVISION BY IDENTIFICATION MEANS		

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this paper is being electronically transmitted by EFS-WEB to the United States Patent and Trademark Office on October 27, 2010.

By: /Erin Nichols Matkaiti/
Erin Nichols Matkaiti

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Appeal Brief is submitted pursuant to 37 C.F.R. § 41.37 for the above-referenced patent application in response to the Notice of Appeal filed on July 6, 2010.

Please charge deposit account 50-3581 (IHN.067.WUS) in the amount of \$540.00 for filing this brief in support of an appeal as set forth in 37 C.F.R. § 41.20(b)(2). If necessary, authority is given to charge/credit deposit account 50-3581 (IHN.067.WUS) additional fees/overages in support of this filing.

TABLE OF CONTENTS

I.	REAL PARTY IN INTEREST.....	1
II.	RELATED APPEALS AND INTERFERENCES	2
III.	STATUS OF CLAIMS.....	3
IV.	STATUS OF AMENDMENTS	4
V.	SUMMARY OF CLAIMED SUBJECT MATTER	5
VI.	GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL.....	8
	Claims 1-27 stand rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Publication No. 2004/0039661 by Fuzell-Casey <i>et al</i>	8
VII.	ARGUMENT.....	9
	A. The § 102(e) rejection of claims 1-7, 9-11, 15-19, 22, 23, 28, and 29 is improper because the asserted teachings of Fuzell fail to teach or suggest each of the claimed limitations	9
	1. No portion of Fuzell has been asserted as teaching or suggesting, or teach or suggest, the limitations of dependent claim 17.	11
	B. Conclusion	12
VIII.	CLAIMS APPENDIX.....	13
IX.	EVIDENCE APPENDIX.....	20
X.	RELATED PROCEEDINGS APPENDIX	21

I. REAL PARTY IN INTEREST

The real party in interest is the assignee, Nokia Corporation.

II. RELATED APPEALS AND INTERFERENCES

Appellant is unaware of any related appeals, interferences, or judicial proceedings that would have a bearing on the Board's decision in the instant appeal.

III. STATUS OF CLAIMS

Claims 1-7, 9-11, 15-19, 22, 23, 28, and 29 are pending, and claims 8, 12-14, 20, 21, and 24-27 have been canceled.

At least claims 1-7, 9-11, 15-19, 22, and 23 have been finally rejected by the Examiner's action dated March 3, 2010 (hereinafter "final Office action"), from which Appellant appeals. While claims 28 and 29 are discussed at page twelve of the final Office action, these claims are not included in the statement of rejection on page three in violation of MPEP § 707.07(d).

A copy of claims 1-7, 9-11, 15-19, 22, 23, 28, and 29, which are the subject of this appeal, may be found in the Claims Appendix (section VIII) at pages 13-19.

IV. STATUS OF AMENDMENTS

In the Amendment & Response filed on May 4, 2010, in reply to the final Office action, claim 11 was amended. The Advisory Action dated May 24, 2010, indicates that the proposed amendment was entered, and the rejection under 35 U.S.C. § 112 was withdrawn. Therefore, claim 11 at pages 15-16 includes the amendments presented in the May 4th response.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The claimed invention provides for an automated context information based selective data provision using radio frequency identification (RFID) technology. Context information is acquired/retrieved wirelessly and used to automatically select a data record from a plurality of data records. The selected data record is then further processed such that the selected data record can be retrieved wirelessly as identification information. This eliminates the need for a user to browse through a huge number of list entries, for example, entries relating to information about tickets, credit cards *etc.*, stored in a portable terminal. Thus, even large amounts of information become easily maintainable, encouraging users to frequently use the portable terminal as the “ticket of choice” and/or “purse of choice”.

One embodiment of the present invention is directed to a method. *See, e.g.*, claim 1; Fig. 1; and the corresponding discussion at page 9, line 2 – page 14, line 23. The method includes receiving, at an apparatus, context information from an external source (*e.g.*, S130). A data record out of a plurality of data records is selected at the apparatus (*e.g.*, S150), wherein said plurality of data records are maintained within the apparatus and wherein said selecting of said data record is performed in accordance with said received context information. The selected data record is supplied to a radio frequency identification communication module within said apparatus (*e.g.*, S160), and the selected data record is provided as an identification information by said radio frequency identification communication module for being retrievable wirelessly by an external entity through radio frequency identification interrogation (*e.g.*, S170).

Another embodiment of the present invention is directed to a computer-readable storage medium. *See, e.g.*, claim 11; Fig. 1; and the discussions at page 5, lines 8-22; and page 9, line 2 – page 14, line 23. The computer-readable storage medium includes computer-executable program code sections stored thereon for carrying out a method when said program code sections are run on an apparatus including at least one of a computer, a microprocessor based device, a terminal, a network device, a mobile terminal or a mobile communication enabled terminal (*e.g.*, page 5, lines 8-22). The method includes receiving context information from an external source (*e.g.*, S130) and selecting a data record out of a plurality of data records (*e.g.*, S150), wherein said plurality of data records are maintained within said apparatus and wherein said selecting of said data record is

performed in accordance with said received context information. The method further includes supplying said selected data record to a radio frequency identification communication module within said apparatus (*e.g.*, S160) and providing said selected data record as an identification information by said radio frequency identification communication module for being retrievable wirelessly by an external entity through radio frequency identification interrogation (*e.g.*, S170).

Another embodiment of the present invention is directed to an apparatus. *See, e.g.*, claim 15; Figs. 3 and 4; and the corresponding discussions at page 19, line 33 – page 23, line 23. The apparatus includes a radio frequency interface (*e.g.*, context information acquisition means 600, a cellular interface 180, a low power radio frequency interface 602, a Bluetooth transceiver, a WLAN transceiver, an ultra wideband transceiver and any other transceiver operable with IEEE 802.xx standards, radio frequency identification transponder, or reader 603) configured for receiving context information from an external source and selection means (*e.g.*, 620, a processor, a controller, logic circuits, central processing unit 110) configured for selecting a data record out of a plurality of data records (*e.g.*, data record storage 622, data storage 120), wherein said plurality of data records is maintained by the apparatus for selection and wherein said selecting of said data record is operable in accordance with said context information. The apparatus further includes configuration means (*e.g.*, 630, a processor, a controller, logic circuits, central processing unit 110) configured for supplying said selected data record to a radio frequency identification communication module (*e.g.*, identification means 640, a radio frequency identification transponder / reader 641) within said apparatus, wherein said radio frequency identification communication module is configured for providing said selected data record as an identification information for being wirelessly retrievable by an external entity through radio frequency identification interrogation.

As required by 37 C.F.R. § 41.37(c)(1)(v), a concise explanation of the subject matter defined in each of the independent claims involved in the appeal is provided herein. Appellant notes that representative subject matter is identified for each of these claims; however, the abundance of supporting subject matter in the application prohibits identifying all textual and diagrammatic references to each claimed recitation. Appellant thus submits that other application subject matter, which supports the claims but is not

specifically identified above, may be found elsewhere in the application. Appellant further notes that this summary does not provide an exhaustive or exclusive view of the present subject matter, and Appellant refers to the appended claims and their legal equivalents for a complete statement of the invention.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The sole ground of rejection is as follows:

Claims 1-27 stand rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Publication No. 2004/0039661 by Fuzell-Casey *et al.* (hereinafter “Fuzell”).

VII. ARGUMENT

A. The § 102(e) rejection of claims 1-7, 9-11, 15-19, 22, 23, 28, and 29 is improper because the asserted teachings of Fuzell fail to teach or suggest each of the claimed limitations.

In general, Fuzell does not teach or suggest any of the claimed uses of radio frequency identification (RFID) technology. The assertion at page three of the final Office action that paragraph [0028] “indicates the use of radio waves within the wireless functions” fails to provide correspondence to an RFID communication module, or the claimed use thereof. One skilled in the art would recognize the requirements of RFID technology as compared to a general use of radio waves. *See, e.g.*, Appellant’s specification at page 1, line 10, through page 2, line 3. More specifically, no portion of Fuzell has been shown to teach or suggest providing a selected data record for being retrievable wirelessly by an external entity through radio frequency identification interrogation, as claimed. Notably, Fuzell makes no mention of RFID technology. Without correspondence to each of the claimed limitations, the § 102(e) rejection must be reversed.

Fuzell has also not been shown to teach or suggest selecting a data record out of a plurality of data records in accordance with received context information, as claimed in each of the independent claims. For this, and every, claimed limitation, the Office action cites “at least Fig. 2, paragraphs 24-29”. However, none of these cited portions corresponds to at least these limitations. For better illustration, Fuzell’s cited Fig. 2 is reproduced below.

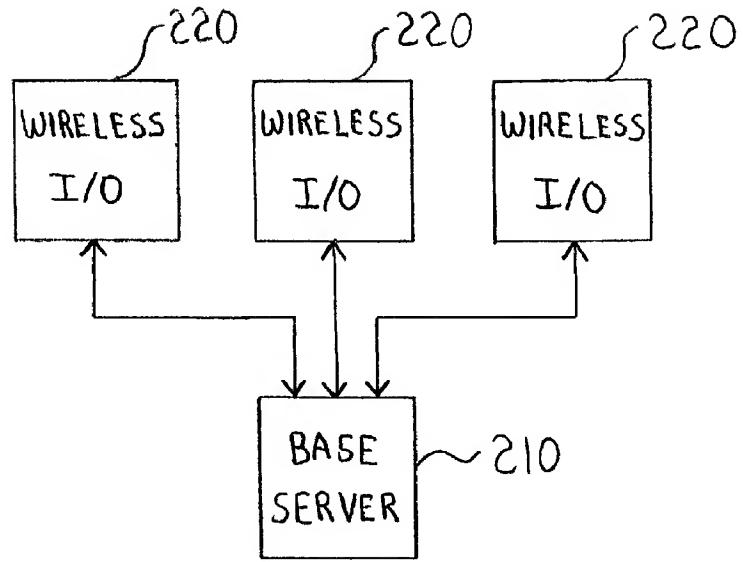


FIG. 2

Fig. 2 makes no reference to RFID technology, context information, a plurality of data records, or selecting a data record. Also, cited paragraphs [0025]-[0029] merely describe sample device characteristics for Fuzell's portable computing device (PCD). Due to the inapplicability of these teachings to the claimed limitations, it is Appellant's understanding that the alleged correspondence to each of the claimed limitations is asserted as being present in cited paragraph [0024]. This paragraph is reproduced below:

The present invention is related to a selection system, and more particularly to a system that enables users to create an interactive list of items to select or locate within a store or geographic area, provides users with cues as to the location of such items within the store or area, progresses through the interactive list as such items are located, and provides information about, discounts on or alternatives to such items. The selection system can also market information to the user based on the interactive list of items and/or the user's proximity to an area or product. (paragraph [0024])

While, Fuzell teaches interaction between a PCD and a selection server, neither of these devices has been shown to both receive context information and select a data record in accordance with the received context information. Rather, the PCD uploads a list to the selection server and the selection server downloads a map to the PCD (paragraph [0037]). As may be seen, paragraph [0024] fails to correspond to each of the limitations of claims

1-7, 9-11, 15-19, 22, 23, 28, and 29. Without correspondence to each of the claimed limitations, the § 102(e) rejection is improper.

To anticipate a claim, the asserted reference must teach every element of the claim. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The Federal Circuit also recently held that “Because the hallmark of anticipation is prior invention, the prior art reference—in order to anticipate under 35 U.S.C. § 102—must not only disclose all elements of the claim within the four corners of the document, but must also disclose those elements ‘arranged as in the claim.’” (*Net Moneyin, Inc. v. Verisign, Inc.*, 545 F.3d 1359, 2008 WL 4614511 (Fed. Cir. 2008) quoting *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548 (Fed. Cir. 1983)). Therefore, all claim elements and their limitations, must be found in the prior art reference to maintain the rejection based on 35 U.S.C. § 102. Appellant respectfully maintains that Fuzell does not teach every element of independent claims 1, 11, and 15 in the requisite detail and therefore fails to anticipate claims 1-7, 9-11, 15-19, 22, 23, 28, and 29. Appellant accordingly requests that the rejection be reversed.

Dependent claims 2-7, 9, 10, 16-19, 22, 23, 28, and 29 depend from independent claims 1 and 15, respectively, and also stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Fuzell. While Appellant does not acquiesce with the particular rejections to these dependent claims, these rejections are also improper for the reasons discussed above in connection with the independent claims. These dependent claims include all of the limitations of their respective base claims and any intervening claims and recite additional features which further distinguish these claims from the cited reference. Therefore, the rejection of dependent claims 2-7, 9, 10, 16-19, 22, 23, 28, and 29, is improper, and Appellant requests that the rejection be reversed.

1. No portion of Fuzell has been asserted as teaching or suggesting the limitations of dependent claim 17.

No evidence, in the form of a citation or otherwise, has been proffered to support the conclusory assertion that Fuzell would teach a radio frequency identification module, as claimed. Without a correlation to the asserted teachings, the rejection is unsupported.

Moreover, as discussed above, Fuzell does not teach or suggest use of a radio frequency identification communication module; therefore, the unsupported assertion is incorrect. Without any presentation of evidence, the rejection of claim 17 is unsupported and improper. Appellant accordingly requests that the rejection be reversed.

B. Conclusion

In view of the above, Appellant respectfully submits that the invention set forth in claims 1-7, 9-11, 15-19, 22, 23, 28, and 29 is patentable over the asserted reference and that the rejection should be reversed. Appellant respectfully requests reversal of the rejection as applied to the appealed claims and allowance of the application with respect to the appealed claims.

Authorization to charge the undersigned's deposit account is provided on the cover page of this brief.

Hollingsworth & Funk, LLC
8500 Normandale Lake Blvd., Suite 320
Minneapolis, MN 55437
952.854.2700

Respectfully submitted,

/Erin Nichols Matkaiti/
Name: Erin Nichols Matkaiti
Reg. No. 57,125

VIII. CLAIMS APPENDIX

1. A method, comprising:
 - receiving, at an apparatus, context information from an external source;
 - selecting, at said apparatus, a data record out of a plurality of data records, wherein said plurality of data records are maintained within said apparatus, wherein said selecting of said data record is performed in accordance with said received context information;
 - supplying said selected data record to a radio frequency identification communication module within said apparatus; and
 - providing said selected data record as an identification information by said radio frequency identification communication module for being retrievable wirelessly by an external entity through radio frequency identification interrogation.
2. The method according to claim 1, comprising scanning an environment of said apparatus to determine a presence of said external source.
3. The method according to claim 1, further comprising analyzing, at said apparatus, said received context information for selecting said data record.
4. The method according to claim 3, wherein said analyzing comprises at least one operation out of:
 - extracting, at said apparatus, from said received context information one or more commands instructing to select said data record;

extracting, at said apparatus, an information item from said context information to be compared with data items comprised by said data records in order to allow for selecting said data record; and

extracting, at said apparatus, an information item from said context information to be compared with association information in order to allow for selecting said data record.

5. The method according to claim 1, wherein each of said data records relates to at least one out of a group including payment related information, loyalty card related information, credit card related information, a debit card related information, a prepaid card related information, a coupon related information, a voucher related information, and electronic ticket related information.

6. The method according to claim 1, wherein said supplying of said selected data record to said radio frequency identification communication module further comprises:

configuring, at said apparatus, said radio frequency identification communication module with said selected data record for providing said selected data record by said radio frequency identification communication module provided as said identification information.

7. The method according to claim 1, wherein said providing of said selected data record by said radio frequency identification communication module allows for wirelessly retrieving by a corresponding external counterpart radio frequency identification communication module of said external entity.

9. The method according to claim 1, further comprising:
revoking, at said apparatus, said provision of said selected data record in
consequence of at least one operation out of a set of operations including:
running down, at said apparatus, a predefined interval in time;
exceeding, at said apparatus, a predefined moment in time; and
detecting, at said apparatus, whether said external entity has retrieved said selected
data record provided as identification information from said radio frequency identification
communication module.
10. The method according to claim 1, wherein said radio frequency identification
communication module is operable with a reader mode and a transponder mode, said
method further comprising:
operating said radio frequency identification communication module in said reader
mode for said acquisition of said context information; and
operating said radio frequency identification communication module in said
transponder mode for provision of said selected data record.
11. A computer-readable storage medium having computer-executable program code
sections stored thereon for carrying out a method when said program code sections are run
on an apparatus including at least one of a computer, a microprocessor based device, a
terminal, a network device, a mobile terminal or a mobile communication enabled
terminal, said method comprising:
receiving context information from an external source;

selecting a data record out of a plurality of data records, wherein said plurality of data records are maintained within said apparatus, wherein said selecting of said data record is performed in accordance with said received context information;

supplying said selected data record to a radio frequency identification communication module within said apparatus; and

providing said selected data record as an identification information by said radio frequency identification communication module for being retrievable wirelessly by an external entity through radio frequency identification interrogation.

15. An apparatus, comprising:

radio frequency interface configured for receiving context information from an external source;

selection means configured for selecting a data record out of a plurality of data records, wherein said plurality of data records is maintained by the apparatus for selection, wherein said selecting of said data record is operable in accordance with said context information; and

configuration means configured for supplying said selected data record to a radio frequency identification communication module within said apparatus;

wherein said radio frequency identification communication module is configured for providing said selected data record as an identification information for being wirelessly retrievable by an external entity through radio frequency identification interrogation.

16. The apparatus according to claim 15, wherein said radio frequency interface is further configured for scanning an environment of said apparatus in order to determine a presence of said external source.

17. The apparatus according to claim 15, wherein said radio frequency identification communication module is coupled electrically or wirelessly to said apparatus at least for a time.

18. The apparatus according to claim 15, further comprising:

analysis means configured for analyzing said received context information, wherein said apparatus further comprises at least one means out of:

extraction means configured for extracting from said received context information one or more commands and/or for extracting an information item from said context information, wherein said one or more commands instruct to select said data record; and

comparison means configured for comparing said information item with data items comprised by said data records and/or for comparing said information item with association information such that the selection is operable with comparison results.

19. The apparatus according to claim 15, further comprising:
- revocation means configured for revoking said provision of said selected data record by said radio frequency identification communication module in consequence of a signal generated by at least one means out of:
- timer means configured to generate said signal in case a predefined interval in time has run down and/or in case a predefined moment in time has been exceeded; and
- detection means configured to detect whether said external entity has retrieved said selected data record provided as said identification information from said radio frequency identification communication module.
22. The apparatus according to claim 15, wherein said radio frequency identification communication module is operable with a reader mode and a transponder mode; wherein said radio frequency identification communication module is operable with said reader mode for acquiring context information, wherein said radio frequency identification communication module is operable with said transponder mode for providing said selected data record as said identification information.
23. The apparatus according to claim 15, wherein at least one of said means is implemented on the basis of a code section, which is configured to perform a function of said means, when carried out by a processing means comprised by said apparatus.

28. The method according to claim 1, wherein said context information includes at least one of location information, an interval in time, a current time, an instruction identifying a specific data record of said plurality of data records, and an identification of said external source.
29. The apparatus according to claim 15, wherein said context information includes at least one of location information, an interval in time, a current time, an instruction identifying a specific data record of said plurality of data records, and an identification of said external source.

IX. EVIDENCE APPENDIX

None.

X. RELATED PROCEEDINGS APPENDIX

None.